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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,966	06/14/2001	Yoshihiko Sano	NPR-074	4190

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KUBOVCIK & KUBOVCIK

SUITE 710

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WASHINGTON, DC 20006

EXAMINER

MCKANE, ELIZABETH L

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/879,966

Applicant(s)

SANO, YOSHIHIKO

Examiner

Leigh McKane

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 5 and 12 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 6-11 and 13-16 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 012904.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

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Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

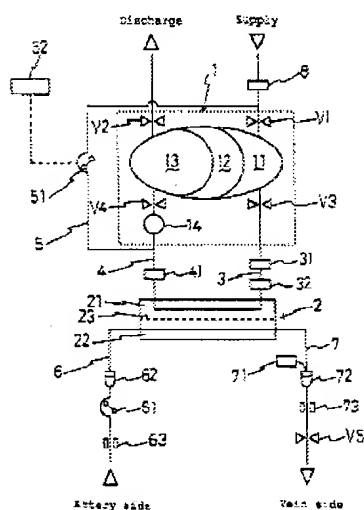
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Nikaido et al (U.S. Patent No. 6,274,034).

Nikaido et al teaches an apparatus for preparing solution including a chamber divided by a movable partition 12 into first 11 and second 13 compartments, a first (“Supply”) and second 5



supply line connected to the first compartment 11, a solution line 4 connecting the first compartment 11 and the second compartment 13, a solution tank 21 and transporting pump 14 in the solution line 4, and a transporting line “Discharge” connected to the second compartment 13.

It is noted that the it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a

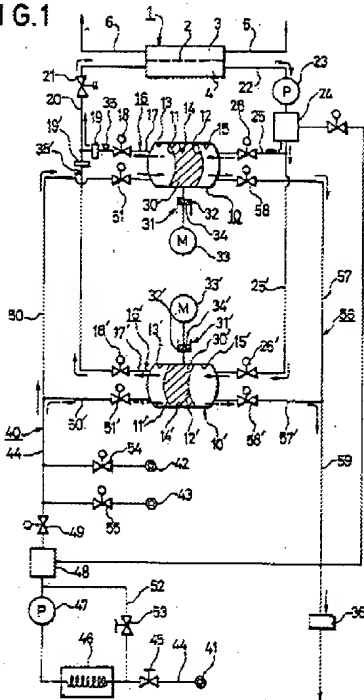
prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

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3. Claims 1, 4, 5, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Era et al (U.S. Patent No. 4,935,125).

Era et al teaches an apparatus for preparing solution including a chamber **10** divided by a movable partition **30** into first **13** and second **15** compartments, a first **50** and second **50'**

FIG. 1



supply line connected to the first compartment **13**, a solution line **20,22** connecting the first compartment **13** and the second compartment **15**, a solution tank **4** and transporting pump **23** in the solution line **22**, and a transporting line **57** connected to the second compartment **13**. The apparatus of Era et al further includes a second chamber **10'**, divided by a movable partition **30'** into first **13'** and second **15'** compartments, and wherein the second chamber **10'** is connected to the supply line **50'**, the solution line **25'**, and the transporting line **57'**.

It is noted that the it has been held that a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus satisfying the claimed structural limitations. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Allowable Subject Matter

4. Claims 2, 3, 6-11, and 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record, Nikaido et al and Era et al, fail to teach or suggest a means by which to add a powder supply. The tanks of Nikaido et al (21) and Era et al (4) are both constructed with a semi-permeable membrane for blood contact and have no means for mixing the fluids on either side of the membrane. Nikaido et al and Era et al also fail to teach or suggest a liquid level detecting sensor in the tanks.

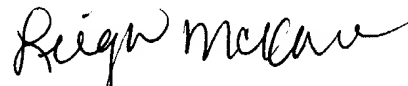
Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh McKane whose telephone number is 571-272-1275. The examiner can normally be reached on Monday-Wednesday (7:15 am-4:45 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert J. Warden can be reached on 571-272-1275. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Leigh McKane
Primary Examiner
Art Unit 1744

elm
22 September 2004